#### **Court Minutes**

#### <u>September 22, 2008</u>

#### MISC. ORDER 2008-012

BY THE COURT:

Associate Justice Rick Sims is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on September 26, 2008, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Hull, Associate Justice; and Horner, bailiff.

#### C056364 THE PEOPLE v. RICHARD BRYAN BROWN

Cause called. Meredith J. Watts, court appointed counsel, argued for appellant. Angelo S. Edralin, Deputy attorney General, argued for respondent. Cause submitted.

At 9:51 a.m., the court recessed. At 9:51 a.m., the court reconvened.

#### C056200 WALLIS v. PHL ASSOCIATES, INC. et al.; WALLIS et al.; MENDOZA

Cause called. Andrew W. Stroud argued and Kelcie M. Gosling appeared only for cross appellants. Tory E. Griffin argued for cross respondents. Klaus J. Kolb argued for respondents Wichman et al. Cause submitted.

At 10:47 a.m., the court recessed. At 10:53 a.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

#### **Court Minutes**

#### September 22, 2008, Continued

#### C055871 DOUMIT v. McGLAMERY et al.

Cause called. Amanda Uhrhammer argued for appellant. Leslie Mitchell argued for respondent. Cause submitted.

At 11:24 a.m., the court recessed. At 11:25 a.m., the court reconvened.

#### C054685 THE PEOPLE v. RODERICK BRIAN RANDALL

Cause called. Richard M. Doctoroff, court appointed counsel, argued for appellant. Dawn S. Mortazavi, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:45 a.m., the court recessed. At 2:02 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Robie, Associate Justice.

#### C054676 THE PEOPLE v. KENNETH RUSHING

Cause called. Patricia J. Ulibarri, court appointed counsel, argued for appellant. Maggy Krell, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:29 p.m., the court recessed. At 2:29 p.m., the court reconvened.

#### C055336 THE PEOPLE v. DAN W. REYNOLDS

Cause called. Eric Weaver argued for appellant. R. Todd Marshall, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:57 p.m., the court recessed. At 3:02 p.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

#### C054933 LYNCH v. HERTZIG et al.

Cause called. Timothy W. Pemberton argued for appellant. Kenneth M. Foley argued for respondent. Cause submitted.

At 3:23 p.m., the court recessed until 9:30 a.m., Monday, October 20, 2008.

#### **Court Minutes**

#### September 22, 2008, Continued

C054225 THE PEOPLE v.

(Not For Publication)

ISAAC VICENTE et al.

The judgments are affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Butz. J.

C056314 WOO-MING v. GRAVES et al.

(Not For Publication)

The judgments appealed from are affirmed. Defendants are awarded

costs on appeal. ...

BUTZ, J.

We Concur: Sims, Acting P.J.

Hull, J.

C056338

BERNARDINO et al. v. MID-VALLEY LABOR SERVICES, INC. et al.

BY THE COURT:

Appellant's petition for rehearing is granted. This court's order filed on August 22, 2008, dismissing the appeal is vacated and the appeal is reinstated.

Respondent's brief is to be served and filed on or before October 22, 2008.

SCOTLAND, P.J.

#### September 23, 2008

C052280 THE PEOPLE v.

(Not For Publication)

**HUNG THIEU LY et al.** 

The judgments are affirmed. The trial court is directed to correct the abstract of judgment and clerk's minutes to delete all mention of a parole revocation fine as to defendant Ly and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

BUTZ, J.

We Concur: Scotland, P.J.

Hull, J.

#### **Court Minutes**

#### September 23, 2008, Continued

#### C055527 THE PEOPLE v. MAXWELL RAINES (Not For Publication)

The judgment is modified by striking the two five-year sentence enhancements associated with the conviction for assault by means of force likely to produce great bodily injury (count four). The finding of a prior serious or violent felony conviction with respect to the Mississippi voluntary manslaughter conviction is reversed, and the sentence is vacated. The matter is remanded to the trial court with directions to give the prosecution, as soon as the matter can be heard, an opportunity to establish that the Mississippi manslaughter conviction constituted a strike under the Three Strikes law. If the prosecution successfully does so, the trial court shall reenter the judgment and sentencing, as modified. If the prosecution does not establish that the Mississippi manslaughter conviction constitutes a strike, the trial court shall dismiss the allegation and resentence defendant. In either event, the trial court shall prepare and distribute as appropriate a new abstract of judgment.

NICHOLSON, J.

We Concur: Scotland, P.J.

Hull, J.

C055549 THE PEOPLE v.

(Certified For Publication)

**KENNETH LEE MARTINEZ** 

The judgment is affirmed.

MORRISON, Acting P.J.

We Concur: Hull, J.

Butz, J.

C055865 THE PEOPLE v. RICHARD KARELAS

(Not For Publication)

(Not For Publication)

The judgment is affirmed.

ROBIE. J.

We Concur: Scotland, P.J.

Nicholson, J.

C057808 In re G.V

In re G.W.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. RONALD W.

et al.

The order terminating the parental rights of father and mother is affirmed.

BUTZ, J.

We Concur: Scotland, P.J.

Sims, J.

#### **Court Minutes**

#### September 23, 2008, Continued

C057746 In re ANTHONY H. et al; SACRAMENTO (Not For Publication)

**COUNTY DEPARTMENT OF HEALTH** 

AND HUMAN SERVICES v.

**ROSEMARY G.** 

The orders of the juvenile court are affirmed.

MORRISON, Acting P.J.

We Concur: Robie, J.

Cantil-Sakauye, J.

# C057952 In re ALEX K.; ELIAS FERNANDEZ, JR. (Not For Publication) v. ALEX K.

The order requiring Alex K. to pay victim restitution in the amount of \$1,400 is reversed and the matter is remanded to the juvenile court for a new restitution hearing.

CANTIL-SAKUYE, J.

We Concur: Davis, Acting P.J.

Nicholson, J.

# C058693 In re G.H.; EL DORADO COUNTY (Not For Publication) DEPARTMENT OF HUMAN SERVICES v. LORI H.

The orders terminating parental rights are reversed and the matter is remanded for the limited purpose of determining whether the department has complied with the inquiry and notice provisions of the ICWA and whether the ICWA applies in this case. If, after proper inquiry, the juvenile court determines that the tribes were properly noticed with all available information and there either was no response or the tribe (s) determined that the minor was not an Indian child, the juvenile court is ordered to conduct a new section 366.26 hearing in conformance with all provisions of the ICWA.

ROBIE, J.

We Concur: Morrison, Acting P.J.

Cantil-Sakauye, J.

#### C053705 THE PEOPLE v. MICHAEL GEORGE ROBERTS

BY THE COURT:

Respondent's petition for rehearing is granted. NICHOLSON, Acting P.J.

#### **Court Minutes**

#### **September 24, 2008**

C054687 THE PEOPLE v. NATHANIEL POPE (Not For Publication)

The judgment is affirmed.

ĎAVIS, J.

We Concur: Scotland, P.J.

Robie, J.

C056775 THE PEOPLE v. (Not For Publication)

**WILLIAM BOYD STOKES** 

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Scotland, P.J. Nicholson, J.

C055122 WOOD et al. v. HOCK et al. (Not For Publication)

The judgment is affirmed. Each party shall pay its own costs on appeal

and cross-appeal.

DAVIS, J.

We Concur: Scotland, P.J.

Robie, J.

#### **September 25, 2008**

C052868 THE PEOPLE v. ALFRED MARTINEZ (Not For Publication)

The judgment is affirmed. The clerk of the trial court is ordered to prepare and file an amended abstract of judgment noting all sentence terms are consecutive and full, and to file the amended abstract with the Department of

Corrections and Rehabilitation.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Hull, J.

C054972 THE PEOPLE v. (Certified For Publication)

**SANTOS NIETO ZEPEDA** 

The judgment is affirmed.

NICHOLSON, J.

We Concur: Scotland, P.J.

Raye, J.

#### **Court Minutes**

#### September 25, 2008, Continued

C058160 THE PEOPLE v. (Not For Publication)

**CHRISTOPHER LEE KEEHL** 

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Blease, J.

C055840 ANWYL, SCOFFIELD & STEPP v. (Not For Publication)

**BLACKHURST** 

The order striking Blackhurst's cross-complaint is affirmed. The parties

shall bear their own costs on appeal. ...

SCOTLAND, P.J.

We Concur: Davis, J.

Robie, J.

C057640 In re TOMMY H.; MARK B. v. TEHAMA COUNTY DEPARTMENT OF SOCIAL

**SERVICES; TOMMY H.** 

BY THE COURT:

Appellant's petition for rehearing is denied.

SCOTLAND, P.J.

#### <u>September 26, 2008</u>

There are no minutes for this date.